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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1246

Introduced by Assembly Member Brownley
(Coauthor: Senator Lowenthal)

February 18, 2011

An act to amend Sections 42605, 60119, 60200, 60203, and ~~60204~~ 60207 of, to add Sections 60209 and 60210 to, to add and repeal Section 60053 of, and to repeal Chapter 3.25 (commencing with Section 60420) of Part 33 of Division 4 of Title 2 of, the Education Code, relating to instructional materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1246, as amended, Brownley. Instructional materials.

(1) Existing law authorizes local educational agencies to use specified funds for any educational purpose, as provided, and requires instructional materials purchased by such a local educational agency to be materials adopted by the State Board of Education and be aligned with state standards, as specified.

This bill would instead provide that the instructional materials purchased by such a local educational agency be aligned with state standards, as specified.

(2) Existing law requires the state board to adopt at least 5 basic instructional materials for all applicable grade levels in kindergarten and grades 1 to 8, inclusive. Existing law requires the governing board of each school district maintaining one or more high schools to adopt instructional materials for use in the high schools under its control.

This bill would state the intent of the Legislature that the Superintendent of Public Instruction conduct a study using private funds to determine the feasibility of a statewide system of digital distribution of instructional materials, as specified. The bill would, by December 31, 2014, require the Superintendent to evaluate the effectiveness of the pilot program and report the results of the evaluation and the study to the Governor and the appropriate committees of the Legislature.

(3) Existing law requires that, in order to be eligible for specified funds, a school district take steps to ensure that each pupil in each school in the district has sufficient textbooks or instructional materials that are aligned to adopted content standards, as specified. Existing law establishes the Academic Content Standards Commission that is required to develop academic content standards in English language arts and mathematics.

This bill would require a school district, in order to be eligible for specified funds, to ensure that there are sufficient textbooks or instructional materials that are aligned to specified adopted content standards or the content standards that were developed by the Academic Content Standards Commission and adopted by the state board. The bill also would state the intent of the Legislature that textbooks, instructional materials, and supplemental instructional materials be deemed to be aligned with the content standards and be deemed consistent with the content and cycles of the curriculum framework adopted by the state board, as specified, if the textbooks, instructional materials, supplemental instructional materials, or a combination of any such materials are aligned to the content standards adopted pursuant to specified provisions of law.

(1)

(4) Existing law requires the ~~State Board of Education~~ state board to adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, as defined, subject to specified provisions, including criteria established by the state board, as specified, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 30 months before the date that the materials are to be

approved for adoption. Existing law authorizes instructional materials to be submitted for adoption in certain subject areas according to 6- and 8-year submission cycles.

~~This bill would require the Superintendent of Public Instruction, and authorize school districts, to submit instructional materials for review to the state board, which would be required to adopt procedures for the review of those submitted instructional materials. The bill would add additional requirements for the review and adoption of instructional materials, including, but not limited to, changing the submission cycles to 8 years for all subject areas and requiring the State Department of Education to assess a reasonable fee on a publisher or manufacturer if it submits instructional materials for review after the applicable timeframe, and would provide that the criteria established by the state board for reviewing and adopting instructional materials are required to be approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 12 months before the date that the materials are to be approved for adoption. The bill would delete a provision that requires the state board to authorize a district governing board, under specified circumstances, to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board. The bill also would authorize the Superintendent and school districts to recommend to the state board instructional materials for its adoption, as specified.~~

This bill would, among other things, require the State Department of Education, before conducting an adoption of basic instructional materials for mathematics, to provide notice, as specified, to all publishers or manufacturers that each publisher or manufacturer is required to pay a fee, as specified, to offset the cost of conducting the adoption process. The bill would further authorize a local educational agency to use instructional materials that are aligned with academic content standards, as specified, including basic instructional materials that have not been adopted by the state board, and would require the review process conducted by the local educational agency of those instructional materials to include a majority of classroom teachers who are assigned to the subject area or grade level of the materials.

(2)

~~(5) Existing law requires the Instructional Quality Commission (commission) to perform specified duties related to instructional materials for use in elementary schools, including the recommendation~~

of instructional materials for adoption to the state board. Existing law also requires the state board to give the ~~commission~~ *Instructional Quality Commission* a public hearing before making any adoption of instructional materials for use in elementary schools.

~~This bill would delete the requirement that the commission recommend instructional materials for adoption to the state board and would require the commission to perform additional prescribed functions, as specified. The bill would prohibit the commission from performing certain functions unless funds are available in the Budget Act for the commission. The bill also would require the state board to hold a public hearing before adopting instructional materials for use in elementary schools. The bill also would require the state board to consider recommendations for instructional materials from the Superintendent and comments from the commission, other advisory bodies, and the public before making its decision to adopt instructional materials.~~

(6) Existing law requires the state board to adopt revised curriculum frameworks and evaluation criteria that are aligned to the content standards adopted, as specified, for mathematics and English language arts no later than May 30, 2013, and May 30, 2014, respectively.

This bill would instead require the state board to adopt a revised curriculum framework for mathematics no later than November 30, 2013. The bill would authorize the state board to adopt instructional materials for kindergarten and grades 1 to 8, inclusive, that are aligned to content standards adopted, as specified, for mathematics no later than February 28, 2014, and would authorize the state board to adopt evaluation criteria for mathematics no later than March 31, 2013, as specified. The bill also would require the instructional materials adopted pursuant to these provisions to remain adopted until the next statewide adoption of instructional materials for mathematics.

(7) Existing law establishes the Instructional Materials Funding Realignment Program to provide funding for instructional materials to school districts on the basis of an equal amount per pupil enrolled in public elementary and high schools, as specified.

This bill would repeal the provisions relating to the Instructional Materials Funding Realignment Program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 42605 of the Education Code is amended*
2 *to read:*

3 42605. (a) (1) Unless otherwise prohibited under federal law
4 or otherwise specified in subdivision (e), for the 2008–09 fiscal
5 year to the 2014–15 fiscal year, inclusive, recipients of funds from
6 the items listed in paragraph (2) may use funding received, pursuant
7 to subdivision (b), from any of these items listed in paragraph (2)
8 that are contained in Section 2.00 of the annual Budget Act, for
9 any educational purpose.

10 (2) Items 6110-104-0001, 6110-105-0001, 6110-108-0001,
11 6110-122-0001, 6110-124-0001, 6110-137-0001, 6110-144-0001,
12 6110-150-0001, 6110-151-0001, 6110-156-0001, 6110-181-0001,
13 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001,
14 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001,
15 6110-209-0001, 6110-211-0001, 6110-227-0001, 6110-228-0001,
16 6110-232-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001,
17 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001,
18 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-266-0001,
19 6110-267-0001, 6110-268-0001, and 6360-101-0001 of Section
20 2.00.

21 (b) (1) For the 2009–10 fiscal year to the 2014–15 fiscal year,
22 inclusive, the Superintendent or other administering state agency,
23 as appropriate, shall apportion from the amounts provided in the
24 annual Budget Act for the items enumerated in paragraph (2) of
25 subdivision (a) an amount to recipients based on the same relative
26 proportion that the recipient received in the 2008–09 fiscal year
27 for the programs funded through the items enumerated in paragraph
28 (2) of subdivision (a).

29 (2) This section and Section 42 of Chapter 12 of the Third
30 Extraordinary Session of the Statutes of 2009 do not authorize a
31 school district that receives funding on behalf of a charter school
32 pursuant to Sections 47634.1 and 47651 to redirect this funding
33 for another purpose unless otherwise authorized in law or pursuant
34 to an agreement between a charter school and its chartering
35 authority. Notwithstanding paragraph (1), for the 2008–09 fiscal
36 year to the 2014–15 fiscal year, inclusive, a school district that
37 receives funding on behalf of a charter school pursuant to Sections
38 47634.1 and 47651 shall continue to distribute the funds to those

1 charter schools based on the relative proportion that the school
2 district distributed in the 2007–08 fiscal year, and shall adjust those
3 amounts to reflect changes in charter school attendance in the
4 district. The amounts allocated shall be adjusted for any greater
5 or lesser amount appropriated for the items enumerated in
6 paragraph (2) of subdivision (a). For a charter school that began
7 operation in the 2008–09 fiscal year, if a school district received
8 funding on behalf of that charter school pursuant to Sections
9 47634.1 and 47651, the school district shall continue to distribute
10 the funds to that charter school based on the relative proportion
11 that the school district distributed in the 2008–09 fiscal year and
12 shall adjust the amount of those funds to reflect changes in charter
13 school attendance in the district. The amounts allocated shall be
14 adjusted for any greater or lesser amount appropriated for the items
15 enumerated in paragraph (2) of subdivision (a).

16 (3) Notwithstanding paragraph (1), for the 2008–09 fiscal year
17 to the 2014–15 fiscal year, inclusive, the Superintendent shall
18 apportion from the amounts appropriated by Item 6110-211-0001
19 of Section 2.00 of the annual Budget Act an amount to a charter
20 school in accordance with the per-pupil methodology prescribed
21 in subdivision (c) of Section 47634.1.

22 (4) Notwithstanding paragraph (1), for the 2008–09 fiscal year
23 to the 2014–15 fiscal year, inclusive, the Superintendent shall
24 apportion from the amounts provided in the annual Budget Act an
25 amount to a school district, charter school, and county office of
26 education based on the same relative proportion that the local
27 educational agency received in the 2007–08 fiscal year for the
28 programs funded through the following items contained in Section
29 2.00 of the annual Budget Act: 6110-104-0001, 6110-105-0001,
30 6110-156-0001, 6110-190-0001, Schedule (3) of 6110-193-0001,
31 6110-198-0001, 6110-232-0001, and Schedule (2) of
32 6110-240-0001.

33 (5) For purposes of paragraph (4), if a direct-funded charter
34 school began operation in the 2008–09 fiscal year, the amount that
35 the charter school was entitled to receive from the items
36 enumerated in paragraph (4) for the 2008–09 fiscal year, as certified
37 by the Superintendent in March 2009, is deemed to have been
38 received in the 2007–08 fiscal year.

39 (c) (1) This section does not obligate the state to refund or repay
40 reductions made pursuant to this section. A decision by a school

1 district to reduce funding pursuant to this section for a
2 state-mandated local program shall constitute a waiver of the
3 subvention of funds that the school district is otherwise entitled to
4 pursuant to Section 6 of Article XIII B of the California
5 Constitution on the amount so reduced.

6 (2) (A) As a condition of receipt of funds, the governing board
7 of the school district or board of the county office of education,
8 as appropriate, at a regularly scheduled open public hearing shall
9 take testimony from the public, discuss, approve or disapprove the
10 proposed use of funding, and make explicit for each of the budget
11 items in paragraph (2) of subdivision (a) the purposes for which
12 the funds will be used.

13 (B) The regularly scheduled open public hearing held pursuant
14 to subparagraph (A) shall be held ~~prior to~~ *before* and independent
15 of a meeting where the governing board of the school district or
16 governing board of the county office of education adopts a budget.
17 If the governing board intends to close a program funded by the
18 items listed in paragraph (2) of subdivision (a), the governing board
19 shall identify, in the notice of the agenda of the public hearing or
20 at another public hearing, the program or programs proposed to
21 be closed.

22 (3) Using the Standardized Account Code Structure reporting
23 process, a local educational agency shall report expenditures of
24 funds pursuant to the authority of this section by using the
25 appropriate function codes to indicate the activities for which these
26 funds are expended. The department shall collect and provide this
27 information to the Department of Finance and the appropriate
28 policy and budget committees of the Legislature by April 15, 2010,
29 and annually thereafter on April 15 until, and including, April 15,
30 2016.

31 (d) For the 2008–09 fiscal year to the 2014–15 fiscal year,
32 inclusive, local educational agencies that use the flexibility
33 provision of this section shall be deemed to be in compliance with
34 the program and funding requirements contained in statutory,
35 regulatory, and provisional language, associated with the items
36 enumerated in subdivision (a).

37 (e) Notwithstanding subdivision (d), the following requirements
38 shall continue to apply:

39 (1) For Item 6110-105-0001 of Section 2.00 of the annual
40 Budget Act, the amount authorized for flexibility shall exclude the

1 funding provided to fund remedial educational services pursuant
2 to Provision 4. For Item 6110-156-0001 of Section 2.00 of the
3 annual Budget Act, the amount authorized for flexibility shall
4 exclude the funding provided for instruction of CalWORKs-eligible
5 students pursuant to Schedules (2) and (3) and Provisions 2 and
6 4.

7 (2) (A) Any instructional materials purchased by a local
8 educational agency ~~shall be the materials adopted by the state~~
9 ~~board~~ for kindergarten and grades 1 to 8, inclusive, and for grades
10 9 to 12, inclusive, ~~the materials purchased~~ shall be aligned with
11 ~~the state standards as defined by adopted pursuant to~~ Section
12 ~~60605, 60605 or 60605.8~~, and shall also meet the reporting and
13 sufficiency requirements contained in Section 60119.

14 (B) For purposes of this section, “sufficiency” means that each
15 pupil has sufficient textbooks and instructional materials in the
16 four core areas as defined by Section 60119 and that all pupils
17 within the local educational agency who are enrolled in the same
18 course shall have identical textbooks and instructional materials,
19 as specified in Section 1240.3.

20 (3) For Item 6110-195-0001 of Section 2.00 of the annual
21 Budget Act, the item shall exclude moneys that are required to
22 fund awards for teachers that have previously met the requirements
23 necessary to obtain these awards, until the award is paid in full.

24 (4) For Item 6110-266-0001 of Section 2.00 of the annual
25 Budget Act, a county office of education shall conduct at least one
26 site visit to each of the required schoolsites pursuant to Section
27 1240 and shall fulfill all of the duties set forth in Sections 1240
28 and 44258.9.

29 (5) For Item 6110-198-0001 of Section 2.00 of the annual
30 Budget Act, a school district or county office of education that
31 operates the child care component of the Cal-SAFE program shall
32 comply with paragraphs (5) and (6) of subdivision (c) of Section
33 54746.

34 (f) This section does not invalidate any state law pertaining to
35 teacher credentialing requirements or the functions that require
36 credentials.

37 *SEC. 2. Section 60053 is added to the Education Code, to read:*
38 *60053. (a) It is the intent of the Legislature that the*
39 *Superintendent conduct a study using private funds to determine*
40 *the feasibility of a statewide system of digital distribution of*

1 *instructional materials that may include a pilot project with one*
2 *or more school districts.*

3 *(b) The study shall include a cost-benefit analysis and an*
4 *examination of the issue of equity of access to digital instructional*
5 *materials and the electronic equipment necessary to use*
6 *instructional materials in a digital format.*

7 *(c) By December 31, 2014, the Superintendent shall evaluate*
8 *the effectiveness of the pilot program, and shall report on the*
9 *results of the evaluation and the study to the Governor and the*
10 *appropriate committees of the Legislature.*

11 *(d) (1) A report submitted pursuant to subdivision (c) shall be*
12 *submitted in compliance with Section 9795 of the Government*
13 *Code.*

14 *(2) Pursuant to Section 10231.5 of the Government Code, this*
15 *section is repealed on January 1, 2017.*

16 *SEC. 3. Section 60119 of the Education Code is amended to*
17 *read:*

18 60119. (a) In order to be eligible to receive funds available
19 for the purposes of this article, the governing board of a school
20 district shall take the following actions:

21 (1) (A) The governing board of a school district shall hold a
22 public hearing or hearings at which the governing board shall
23 encourage participation by parents, teachers, members of the
24 community interested in the affairs of the school district, and
25 bargaining unit leaders, and shall make a determination, through
26 a resolution, as to whether each pupil in each school in the school
27 district has sufficient textbooks or instructional materials, or both,
28 that are aligned to the content standards adopted pursuant to Section
29 60605 or 60605.8 in each of the following subjects, as appropriate,
30 that are consistent with the content and cycles of the curriculum
31 framework adopted by the state board:

32 (i) Mathematics.

33 (ii) Science.

34 (iii) History-social science.

35 (iv) ~~English/language~~ *English language* arts, including the
36 English language development component of an adopted program.

37 (B) The public hearing shall take place on or before the end of
38 the eighth week from the first day pupils attend school for that
39 year. A school district that operates schools on a multitrack,
40 year-round calendar shall hold the hearing on or before the end of

1 the eighth week from the first day pupils attend school for that
2 year on any tracks that begin a school year in August or September.
3 For purposes of the 2004–05 fiscal year only, the governing board
4 of a school district shall make a diligent effort to hold a public
5 hearing pursuant to this section on or before December 1, 2004.

6 (C) As part of the hearing required pursuant to this section, the
7 governing board *of a school district* also shall make a written
8 determination as to whether each pupil enrolled in a foreign
9 language or health course has sufficient textbooks or instructional
10 materials that are consistent with the content and cycles of the
11 curriculum frameworks adopted by the state board for those
12 subjects. The governing board *of a school district* also shall
13 determine the availability of laboratory science equipment as
14 applicable to science laboratory courses offered in grades 9 to 12,
15 inclusive. The provision of the textbooks, instructional materials,
16 or science equipment specified in this subparagraph is not a
17 condition of receipt of funds provided by this subdivision.

18 (2) (A) If the governing board *of a school district* determines
19 that there are insufficient textbooks or instructional materials, or
20 both, the governing board shall provide information to classroom
21 teachers and to the public setting forth, in the resolution, for each
22 school in which an insufficiency exists, the percentage of pupils
23 who lack sufficient standards-aligned textbooks or instructional
24 materials in each subject area and the reasons that each pupil does
25 not have sufficient textbooks or instructional materials, or both,
26 and take any action, except an action that would require
27 reimbursement by the Commission on State Mandates, to ensure
28 that each pupil has sufficient textbooks or instructional materials,
29 or both, within two months of the beginning of the school year in
30 which the determination is made.

31 (B) In carrying out subparagraph (A), the governing board *of a*
32 *school district* may use money in any of the following funds:

33 (i) Any funds available for textbooks or instructional materials,
34 or both, from categorical programs, including any funds allocated
35 to school districts that have been appropriated in the annual Budget
36 Act.

37 (ii) Any funds of the school district that are in excess of the
38 amount available for each pupil during the prior fiscal year to
39 purchase textbooks or instructional materials, or both.

(iii) Any other funds available to the school district for textbooks or instructional materials, or both.

(b) The governing board of a school district shall provide 10 days' notice of the public hearing or hearings set forth in subdivision (a). The notice shall contain the time, place, and purpose of the hearing and shall be posted in three public places in the school district. The hearing shall be held at a time that will encourage the attendance of teachers and parents and guardians of pupils who attend the schools in the school district and shall not take place during or immediately following school hours.

(c) (1) For purposes of this section, "sufficient textbooks or instructional materials" means that each pupil, including English learners, has a standards-aligned textbook or instructional materials, or both, to use in class and to take home. This paragraph does not require two sets of textbooks or instructional materials for each pupil. The materials may be in a digital format as long as each pupil, at a minimum, has and can access the same materials in the class and to take home, as all other pupils in the same class or course in the school district and has the ability to use and access them at home.

(2) Sufficient textbooks or instructional materials as defined in paragraph (1), does not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage.

(d) The governing board of a school district that receives funds for instructional materials from any state source is subject to the requirements of this section.

(e) *It is the intent of the Legislature that textbooks, instructional materials, and supplemental instructional materials be deemed to be aligned with the content standards pursuant to subdivisions (a) and (c), and be deemed consistent with the content and cycles of the curriculum framework adopted by the state board pursuant to subdivision (a) if the textbooks, instructional materials, supplemental instructional materials, or a combination of any such materials are aligned to the content standards adopted pursuant to Section 60605 or 60605.8.*

SECTION 1.

SEC. 4. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt at least five basic instructional materials for all applicable grade levels in each of the following subject areas:

(1) Language arts, including, but not limited to, spelling~~and~~, reading, *and English language development*. The state board may not adopt basic instructional materials in this subject area or the subject area specified by paragraph (2) in the year succeeding the year in which the state board adopts basic instructional materials in this subject area for the same grade level.

(2) Mathematics. The state board may not adopt basic instructional materials in this subject area or the subject area specified by paragraph (1) in the year succeeding the year in which the state board adopts basic instructional materials in this subject area for the same grade level.

(3) Science.

(4) Social science.

(5) Bilingual or bicultural subjects.

(6) Any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable.

(b) The state board shall adopt procedures for the submission of basic instructional materials~~and for the review of submitted instructional materials by the Superintendent and school districts~~ in order to comply with each of the following:

(1) ~~The Superintendent shall, and school districts may, submit instructional~~ *Instructional materials may be submitted for review adoption* in any of the subject areas pursuant to paragraphs (1) to (6), inclusive, of subdivision (a) every eight years. The state board shall ensure that curriculum frameworks are reviewed and adopted in each subject area and that the criteria for evaluating instructional materials developed pursuant to subdivision (b) of Section 60204 are consistent with subdivision~~(d)~~ (c). The state board may prescribe reasonable conditions to restrict the resubmission of materials that have been previously rejected if those resubmitted materials have no substantive changes.

(2) If a publisher or manufacturer submits~~an~~ *revisions to currently adopted* instructional material for review to the

1 Superintendent after the timeframe specified by the state board,
2 the department shall assess a fee on the submitting publisher or
3 manufacturer in an amount that shall not exceed the reasonable
4 costs to the department to conduct a review of the instructional
5 material pursuant to this section.

6 ~~(3) Instructional materials recommended~~
7 ~~by the Superintendent or a school district for adoption by the state~~
8 ~~board shall be adopted or rejected within six months of the~~
9 ~~submission date of the materials are recommended by the~~
10 ~~Superintendent or a school district, pursuant to paragraph (1)~~
11 ~~unless the state board determines that a longer period of time, not~~
12 ~~to exceed an additional three months, is necessary due to the~~
13 ~~estimated volume or complexity of the materials for that subject~~
14 ~~in that year, or due to other circumstances beyond the reasonable~~
15 ~~control of the state board.~~

16 ~~(4) Instructional materials submitted by school districts may be~~
17 ~~developed by either a district or by publishers or manufacturers~~
18 ~~of instructional materials. Publishers or manufacturers of~~
19 ~~instructional materials may submit instructional materials to a~~
20 ~~school district, the Superintendent, or both.~~

21 ~~(5)~~
22 (4) The process for review of instructional materials shall
23 involve review committees, which shall include, but not be limited
24 to, volunteer content experts and instructional material reviewers,
25 and shall be composed of a majority of classroom teachers from
26 a wide variety of affected grade levels and subject areas.

27 ~~(6)~~
28 (5) The rules and procedures for adoption of instructional
29 materials shall be transparent and consistently applicable regardless
30 of the format of the instructional materials, which may include,
31 but not be limited to, print, digital, and open-source instructional
32 materials.

33 ~~(e) (1) The Superintendent and school districts may recommend~~
34 ~~to the state board instructional materials for its adoption and use~~
35 ~~in kindergarten and grades 1 to 8, inclusive.~~

36 ~~(2) The Superintendent or a school district may recommend~~
37 ~~only instructional materials that meet the criteria specified in~~
38 ~~paragraphs (1) to (5), inclusive, of subdivision (d) and any other~~
39 ~~criteria that the state board may establish as necessary to~~

1 accomplish the intent of Section 7.5 of Article IX of the California
2 Constitution.

3 ~~(3) When the Superintendent and school districts recommend~~
4 ~~instructional materials to the state board, they shall include reports~~
5 ~~of findings that include information regarding alignment of~~
6 ~~standards, program organization, pupil assessments, teacher~~
7 ~~support, and support for English learners and pupils with~~
8 ~~disabilities.~~

9 ~~(4) The governing board of a school district choosing to~~
10 ~~recommend instructional materials to the state board shall ensure~~
11 ~~that a majority of a review committee convened by the school~~
12 ~~district for the purpose of selecting the instructional materials is~~
13 ~~composed of classroom teachers who are assigned to teach the~~
14 ~~grade in which the instructional materials are to be used.~~

15 ~~(d)~~

16 (c) In reviewing and adopting or recommending for adoption
17 submitted basic instructional materials, the state board shall use
18 the following criteria, and ensure that, in its judgment, the
19 submitted basic instructional materials meet all of the following
20 criteria:

21 (1) Are consistent with the criteria and the standards of quality
22 prescribed in the state board's adopted curriculum framework. In
23 making this determination, the state board shall consider both the
24 framework and the submitted instructional materials as a whole.

25 (2) Comply with the requirements of Sections 60040, 60041,
26 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state
27 board's guidelines for social content.

28 (3) Are factually accurate and incorporate principles of
29 instruction reflective of current and confirmed research.

30 (4) Are aligned to the content standards adopted by the state
31 board in the subject area and the grade level or levels for which
32 they are submitted.

33 (5) Do not contain materials, including illustrations, that provide
34 unnecessary exposure to a commercial brand name, product, or
35 corporate or company logo. Materials, including illustrations, that
36 contain a commercial brand name, product, or corporate or
37 company logo may not be used unless the state board determines
38 that the use of the commercial brand name, product, or corporate
39 or company logo is appropriate based on one of the following
40 specific findings:

1 (A) If text, the use of the commercial brand name, product, or
2 corporate or company logo in the instructional materials is
3 necessary for an educational purpose, as defined in the guidelines
4 or frameworks adopted by the state board.

5 (B) If an illustration, the appearance of a commercial brand
6 name, product, or corporate or company logo in an illustration in
7 instructional materials is incidental to the general nature of the
8 illustration.

9 (6) Meet other criteria as are established by the state board as
10 being necessary to accomplish the intent of Section 7.5 of Article
11 IX of the California Constitution and of Section 1 of Chapter 1181
12 of the Statutes of 1989, provided that the criteria are approved by
13 resolution at the time the resolution adopting the framework for
14 the current adoption is approved, or at least ~~30~~ 12 months before
15 the date that the materials are to be approved for adoption.

16 ~~(e)~~

17 (d) If basic instructional materials are rejected, the state board
18 shall provide a specific, written explanation of the reasons why
19 the submitted materials were not adopted, based ~~upon~~ on one or
20 more of the criteria established under subdivision ~~(d)~~ (c). In
21 providing this explanation, the state board may use, in whole or
22 in part, materials written by the Superintendent, ~~school districts,~~
23 or any other advisers to the state board.

24 ~~(f)~~

25 (e) The state board may adopt fewer than five basic instructional
26 materials in each subject area for each grade level if either of the
27 following occurs:

28 (1) Fewer than five basic instructional materials are submitted.

29 (2) The state board specifically finds that fewer than five basic
30 instructional materials meet the criteria prescribed by paragraphs
31 (1) to (5), inclusive, of subdivision ~~(d)~~ (c), or the materials fail to
32 meet the state board's adopted curriculum framework. If the state
33 board adopts fewer than five basic instructional materials in any
34 subject for any grade level, the state board shall conduct a review
35 of the degree to which the criteria and procedures used to evaluate
36 the submitted materials for that adoption were consistent with the
37 state board's adopted curriculum framework.

38 ~~(g)~~

39 (f) This section does not limit the authority of the state board
40 to adopt materials that are not basic instructional materials.

~~(h) If the governing board of a school district establishes to the satisfaction of the state board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the school district, the state board shall authorize that governing board of the school district to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.~~

~~(i)~~

(g) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of knowledge, information, and technology-based materials to meet the goals of the program and the needs of pupils.

~~(j)~~

(h) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to existing law. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, from the date of the adoption of the item and until a date established by the state board. The date established by the state board for continuing items on that list shall be the date on which the state board adopts instructional materials based ~~upon~~ on a new or revised curriculum framework. Lists of adopted instructional materials shall be made available by subject and grade level to school districts and posted on the department's Internet Web site, and shall include information from the reports of findings pursuant to paragraph ~~(3)~~ (4) of subdivision ~~(e)~~ (b). The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

~~(k)~~

(i) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state

board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

~~(h)~~

(j) A composite listing in the format of an order form may be used to meet the requirements of this section.

~~(m)~~

(k) The lists maintained pursuant to this section shall not be deemed to control the use period by any school district.

~~(n)~~

(l) The state board shall give publishers the opportunity to modify instructional materials, in a manner provided for in regulations adopted by the state board, if the state board finds that the instructional materials do not comply with paragraph (5) of subdivision ~~(d)~~ (c).

~~(o)~~

(m) This section does not prohibit the publisher of instructional materials from including whatever corporate name or logo on the instructional materials that is necessary to provide basic information about the publisher, to protect its copyright, or to identify third-party sources of content.

~~(p)~~

(n) The state board may adopt regulations that provide for other exceptions to this section, as determined by the board.

~~(q)~~

(o) The Superintendent shall develop, and the state board shall adopt, guidelines to implement this section.

~~SEC. 2.~~

SEC. 5. Section 60203 of the Education Code is amended to read:

60203. (a) The state board shall hold a public hearing before adopting instructional materials for use in the elementary schools of the state.

(b) *The state board shall consider recommendations for instructional materials from the Superintendent before making its decision to adopt instructional materials.*

1 (c) *The state board shall consider comments from the*
2 *commission, other advisory bodies, and the public before making*
3 *its decision to adopt instructional materials.*

4 ~~SEC. 3. Section 60204 of the Education Code is amended to~~
5 ~~read:~~

6 ~~60204. The Instructional Quality Commission established~~
7 ~~pursuant to Section 33530 shall do all of the following:~~

8 ~~(a) Recommend curriculum frameworks to the state board.~~

9 ~~(b) Develop criteria for evaluating instructional materials~~
10 ~~submitted for adoption so that the materials adopted shall~~
11 ~~adequately cover the subjects in the indicated grade or grades and~~
12 ~~comply with the provisions of Article 3 (commencing with Section~~
13 ~~60040) of Chapter 1. The criteria developed by the commission~~
14 ~~shall be consistent with the duties of the state board pursuant to~~
15 ~~Section 60200. The criteria shall be public information, and shall~~
16 ~~be provided in written or printed form to any person requesting~~
17 ~~that information.~~

18 ~~(1) The criteria for English language arts instructional materials~~
19 ~~shall include directions to publishers to align both lessons and~~
20 ~~teacher's editions, as appropriate, with English language~~
21 ~~development standards and incorporate strategies to address, at~~
22 ~~every grade level, the needs of all English learners. The criteria~~
23 ~~for other subject areas shall include directions to publishers to~~
24 ~~incorporate strategies for English learners that are consistent with~~
25 ~~the English language development standards.~~

26 ~~(2) The criteria also shall include directions to publishers to~~
27 ~~incorporate instructional strategies to address the needs of pupils~~
28 ~~with disabilities in both lessons and teacher's editions, as~~
29 ~~appropriate, at every grade level and subject.~~

30 ~~(c) Upon request of the state board, review both of the following:~~

31 ~~(1) Reports of findings made by the Superintendent or by school~~
32 ~~districts pursuant to paragraph (3) of subdivision (c) of Section~~
33 ~~60200.~~

34 ~~(2) Instructional materials.~~

35 ~~(d) Hear appeals at the request of the state board.~~

36 ~~(e) Upon request of the state board, give independent advice to~~
37 ~~the state board about whether instructional materials meet the~~
38 ~~evaluation criteria developed pursuant to subdivision (b).~~

39 ~~(f) Recommend to the state board policies and activities to assist~~
40 ~~the department and school districts in the use of the curriculum~~

1 framework and other available model curriculum materials for the
2 purpose of guiding and strengthening the quality of instruction in
3 the public schools.

4 ~~(g) Advise and make recommendations to the state board,~~
5 ~~including, but not limited to, what policies and activities are needed~~
6 ~~to implement the state's academic content standards, and bring the~~
7 ~~state's curriculum frameworks, instructional materials, professional~~
8 ~~development programs, pupil assessments, and academic~~
9 ~~accountability systems into alignment with those standards.~~

10 ~~(h) Subdivisions (c), (d), and (e) of this section shall not be~~
11 ~~implemented unless funds are available in the Budget Act for the~~
12 ~~Instructional Quality Commission.~~

13 *SEC. 6. Section 60207 of the Education Code is amended to*
14 *read:*

15 60207. (a) Notwithstanding Section 60200.7, the state board
16 shall adopt revised *both of the following:*

17 (1) *Revised curriculum frameworks and evaluation criteria that*
18 *are aligned to the content standards adopted pursuant to Section*
19 *60605.8 for mathematics and English language arts no later than*
20 *May 30, 2013, and May 30, 2014, respectively 2014.*

21 (2) *Revised curriculum frameworks that are aligned to the*
22 *content standards adopted pursuant to Section 60605.8 for*
23 *mathematics no later than November 30, 2013.*

24 (b) *Notwithstanding Section 60200.7, the state board may adopt*
25 *instructional materials for kindergarten and grades 1 to 8,*
26 *inclusive, that are aligned to the content standards adopted*
27 *pursuant to Section 60605.8 for mathematics no later than*
28 *February 28, 2014.*

29 (1) *For purposes of adopting instructional materials for*
30 *mathematics pursuant to this subdivision, the state board may*
31 *adopt evaluation criteria for mathematics no later than March 31,*
32 *2013. The criteria may allow for the adoption of materials that*
33 *have been reviewed and adopted by another state that has adopted*
34 *the common core academic content standards.*

35 (2) *Instructional materials adopted pursuant to this subdivision*
36 *shall remain adopted until the next statewide adoption of*
37 *instructional materials for mathematics.*

38 ~~(b)~~

39 (c) *State board policies shall ensure that the English language*
40 *arts curriculum frameworks for kindergarten and grades 1 to 12,*

1 inclusive, and instructional materials for kindergarten and grades
2 1 to 8, inclusive, include the English language development
3 standards as adopted by the state board in 1997 and revised
4 thereafter, and English language development strategies in the core
5 subjects of mathematics, science, and history-social science.

6 ~~(e)~~

7 (d) State board policies shall ensure that curriculum frameworks
8 for kindergarten and grades 1 to 12, inclusive, and instructional
9 materials for kindergarten and grades 1 to 8, inclusive, include
10 strategies to address the needs of pupils with disabilities in the
11 four core subjects of mathematics, science, history-social science,
12 and English language arts.

13 ~~(d)~~

14 (e) Each curriculum framework that the state board adopts shall
15 describe, to the extent the state board deems appropriate, the
16 manner in which content can be delivered to intentionally build
17 all of the following skills into and across each content area:

18 (1) Creativity and innovation, including, but not limited to,
19 thinking creatively, working creatively with others, and
20 implementing innovations.

21 (2) Critical thinking and problem solving, including, but not
22 limited to, reasoning effectively, using systems thinking, making
23 judgments and decisions, and solving problems.

24 (3) Collaboration, including, but not limited to, working
25 effectively in diverse teams, adapting to change and being flexible,
26 demonstrating initiative and self-direction, working independently,
27 demonstrating productivity and accountability, and demonstrating
28 leadership and responsibility.

29 (4) Communication, including, but not limited to,
30 communicating clearly and effectively through reading, writing,
31 and speaking.

32 (5) Construction and exploration of new understandings of
33 knowledge through the integration of content from one subject
34 area to another and to provide pupils with multiple modes for
35 demonstrating innovative learning.

36 *SEC. 7. Section 60209 is added to the Education Code, to read:*
37 *60209. For purposes of conducting an adoption of basic*
38 *instructional materials for mathematics pursuant to Section 60207,*
39 *all of the following shall apply:*

1 (a) The department shall provide notice, pursuant to subdivision
2 (b), to all publishers or manufacturers known to produce basic
3 instructional materials in that subject, post an appropriate notice
4 on the Internet Web site of the department, and take other
5 reasonable measures to ensure that appropriate notice is widely
6 circulated to potentially interested publishers and manufacturers.

7 (b) The notice shall specify that each publisher or manufacturer
8 choosing to participate in the adoption shall be assessed a fee
9 based on the number of programs the publisher or manufacturer
10 indicates will be submitted for review and the number of grade
11 levels proposed to be covered by each program.

12 (c) The fee assessed pursuant to subdivision (d) shall be in an
13 amount that does not exceed the reasonable costs to the department
14 in conducting the adoption process. The department shall take
15 reasonable steps to limit costs of the adoption and to keep the fee
16 modest.

17 (d) The department, before incurring substantial costs for the
18 adoption, shall require that a publisher or manufacturer that
19 wishes to participate in the adoption first declare the intent to
20 submit one or more specific programs for adoption and specify
21 the specific grade levels to be covered by each program.

22 (1) After a publisher or manufacturer has declared the intent
23 to submit one or more programs and the grade levels to be covered
24 by each program, the department shall assess a fee that shall be
25 payable by the publisher or manufacturer even if the publisher or
26 manufacturer subsequently chooses to withdraw a program or
27 reduce the number of grade levels covered.

28 (2) A submission by a publisher or manufacturer shall not be
29 reviewed for purposes of adoption until the fee assessed has been
30 paid in full.

31 (e) (1) Upon the request of a small publisher or small
32 manufacturer, or a school district submitting locally developed
33 materials, the state board may reduce the fee for participation in
34 the adoption.

35 (2) For purposes of this section, “small publisher” and “small
36 manufacturer” mean an independently owned or operated
37 publisher or manufacturer that is not dominant in its field of
38 operation and that, together with its affiliates, has 100 or fewer
39 employees, and has average annual gross receipts of ten million
40 dollars (\$10,000,000) or less over the previous three years.

1 (f) If the department determines that there is little or no interest
2 in participating in an adoption by publishers and manufacturers,
3 the department shall recommend to the state board that the
4 adoption not be conducted, and the state board may choose not to
5 conduct the adoption.

6 (g) Revenue derived from fees assessed pursuant to subdivision
7 (d) shall be budgeted as reimbursements and subject to review
8 through the annual budget process, and may be used to pay for
9 costs associated with any adoption and for any costs associated
10 with the review of instructional materials, including reimbursement
11 of substitute costs for teacher reviewers and may be used to cover
12 stipends for content review experts.

13 SEC. 8. Section 60210 is added to the Education Code, to read:
14 60210. (a) Notwithstanding any other law, a local educational
15 agency may use instructional materials that are aligned with the
16 academic content standards adopted pursuant to Section 60605
17 or 60605.8, including instructional materials that have not been
18 adopted by the state board pursuant to Section 60200.

19 (b) Instructional materials for mathematics that are aligned to
20 common core academic content standards developed by the
21 Common Core State Standards Initiative consortium pursuant to
22 Section 60605.7 shall be deemed to be aligned to the content
23 standards adopted pursuant to Section 60605 or 60605.8 for
24 purposes of Section 60119.

25 (c) If a local educational agency chooses to use instructional
26 materials that have not been adopted by the state board, the local
27 educational agency shall ensure that a majority of classroom
28 teachers who are assigned to the subject area or grade level of
29 the materials are part of any review process conducted by the local
30 educational agency.

31 SEC. 9. Chapter 3.25 (commencing with Section 60420) of
32 Part 33 of Division 4 of Title 2 of the Education Code is repealed.